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10/798,482	03/12/2004	Akira Takahashi	OKI 414	6303

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Please find below and/or attached an Office communication concerning this application or proceeding.

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In re Application of:
Akira Takahashi
Serial No.: 10/798482
Filed: March 12, 200
Docket: OKI414
Title: DRY ETCHING METHOD FOR SEMICONDUCTOR DEVICE

DECISION ON PETITION

This is a decision on the petition filed April 21, 2009, under 37 C.F.R. § 1.181, requesting review of the examiner's objections to the drawing and specification under 37 C.F.R. § 1. 83 (a) and 35 USC § 132(a), respectively.

On October 22, 2007, the examiner objected to the drawings for failing to show every feature of the invention specified in the claims. In the response filed March 24, 2008, applicant submitted an amendment to the drawings and the specification to address the objection. On June 9, 2008, the examiner withdrew the previous drawing objection and presented a new objection to the drawing for failing to show every feature of the invention specified in the claims and an objection to the amendment to the specification filed March 24, 2008 for introducing new matter into the disclosure. Applicant traversed the objections in a response filed on October 31, 2008. On January 21, 2009, the examiner maintained the objections. Applicant filed a petition on April 21, 2009 to request a review of the examiner's objections.

Petitioner asserts that the amendment to drawing Fig. 3 (C) and Fig. 4 depict the remaining non-doped polysilicon element (9) and that the amendment of the specification to read "the doped polysilicon regions 4 and 5 and the dummy gate electrode region 6 are etched to form gate electrodes 7 and 8 and a dummy gate arrangement 9" filed on March 24, 2008 do not introduce new matter in violation of 35 USC § 132(a).

In support of the petition, the Petitioner asserts that the specification discloses the dummy gate has an area larger than the total area of the N type polysilicon gate and the P type polysilicon; see

bridging pages 4 and 5 of the instant application. From this disclosure, the Petitioner concludes that one of ordinary skill in the art who has read the present application as filed would have realized that the inventor was in mental possession of the alleged new matter, i.e. the dummy gate (9) would remain larger than the gate electrodes after etching.

Petitioner's attention is directed to the fact that the dummy gate (non-doped polysilicon) is set to be larger before etching occurs and this larger area of undoped polysilicon is being used to control etching of the polysilicon gates. The original Fig. 3(c) shows that the dummy gate is totally consumed, during the patterning of the gate electrodes (doped polysilicon), which serves as the end-point etching detection. There is no implicit or explicit disclosure that the "dummy gate" would remain after patterning N type polysilicon and P type polysilicon (gate electrodes).

Therefore, the new matter objection to drawings 3C and 4 is deemed proper and maintained. However, the original objection to the drawings ¶3 of office action mailed 01/21/2009, which resulted in applicant's amendment to the drawing Fig. 3C and new Fig. 4 and corresponding text in the specification is deemed to be improper and is now withdrawn.

Accordingly, the petition is **Grant-In-Part**. The application will be forwarded to technical support staff to process the petition and response filed April 21, 2009 and to forward to the examiner for further appropriate action.

Any inquiry regarding this decision should be directed to Thao X. Le, Supervisory Patent Examiner, at (571) 272-1708.

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